



Article 2, first sentence. There is no doubt that the 1967 War was an international armed conflict within the meaning of the Geneva Conventions. During this armed conflict Israeli armed forces invaded and occupied, *inter alia*, the West Bank and the Gaza Strip, which represented about one-half of the territory that had been allocated to the Arab State under the partition plan in General Assembly Resolution 181(II) of 1947.<sup>270</sup> Reference has already been made to these events in Chapter 3 of this Written Statement.

346. The proper characterization of Israel's current status in respect of this territory remains that of an occupier. Under international law, an Occupying Power does not have sovereignty over the territory subject to its occupation. It merely exercises authority over the territory on a temporary basis.<sup>271</sup> Furthermore, the essential test is one of actual overall control.<sup>272</sup> It does not matter that day-to-day administration may be exercised by local authorities. Territory once occupied remains occupied until a definitive withdrawal from that territory, or a definitive, internationally acceptable settlement. Neither of these events has occurred.

347. All States, whether occupying States or third States, are prohibited from obtaining territory as a result of a threat or use of force. The proposition that title to territory cannot validly be obtained by force is so fundamental and indisputable that elaborate citation of authority is not required before the Court. It follows that the traditional law on occupation of territory, as embodied in the Fourth Geneva Convention of 1949, has been powerfully reinforced by modern international law.

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<sup>270</sup> Already in 1948-9 Israel had occupied about half of the territory allocated to the Arab State.

<sup>271</sup> See in particular Articles 4 and 47 of the Fourth Geneva Convention.

<sup>272</sup> See Article 42 of the 1907 Hague Regulations.

2. *Affirms* that the enactment of the "basic law" by Israel constitutes a violation of international law and does not affect the continued application of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, in the Palestinian and other Arab territories occupied since June 1967, including Jerusalem;

3. *Determines* that all legislative and administrative measures and actions taken by Israel, the occupying Power, which have altered or purport to alter the character and status of the Holy City of Jerusalem, and in particular the recent "basic law" on Jerusalem, are null and void and must be rescinded forthwith;

4. *Affirms also* that this action constitutes a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East;

5. *Decides* not to recognize the "basic law" and such other actions by Israel that, as a result of this law, seek to alter the character and status of Jerusalem and calls upon:

(a) All Member States to accept this decision;

(b) Those States that have established diplomatic missions at Jerusalem to withdraw such missions from the Holy City."

364. Israel remains in occupation of the West Bank including East Jerusalem, and the Gaza Strip. While there has been a partial transfer of certain powers and responsibilities from Israel to the Palestinian Authority (the precise features of which need not be examined by the Court) in respect of some parts of Palestinian territory, Israel remains in overall control of the Occupied Palestinian Territory, including East Jerusalem. According to the UN Special Rapporteur on the Occupied Palestinian Territory:

"The Oslo Accords leave Israel with the ultimate legal control over all of the OPT and the fact that for political reasons it has generally chosen not to exercise this control over the 'A' zones, when it undoubtedly has the military capacity to do so (as illustrated by the Israeli military incursion into the 'A' zone town of Beit Jala in August 2001), cannot relieve Israel of its responsibilities as an occupying power."<sup>286</sup>